

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

TIMOTHY SEAN COOGLE,	)	
	)	
Petitioner,	)	
	)	
v.	)	1:24-cv-521
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

**ORDER**

The matter is before this court for review of the Recommendation ("Recommendation") filed on July 24, 2024, by the United States Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 3.) In the Recommendation, the Magistrate Judge recommends that Petitioner's filing should be dismissed without prejudice to him raising his claims in the district where he was convicted or, if he has already pursued relief through a motion under § 2255 in that court, seeking permission from the United States Court of Appeals to pursue a second or successive § 2255 motion in that district. The Recommendation was served on the parties in this action on July 24, 2024. (Doc. 4.) Petitioner timely filed objections, (Doc. 5), to the Recommendation.

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is

made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

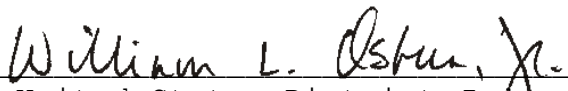
This court has appropriately reviewed the portions of the Recommendation to which the objections were made and has made a de novo determination which is in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation.

**IT IS THEREFORE ORDERED** that the Magistrate Judge's Recommendation, (Doc. 3), is **ADOPTED. IT IS FURTHER ORDERED** that this action is **DISMISSED WITHOUT PREJUDICE** to Petitioner pursuing relief under § 2255 in his district of conviction either by filing a first motion for relief under § 2255 or, if he has already pursued relief through a motion under § 2255 in that court, after successfully seeking certification for a second or successive § 2255 motion by filing a Motion for Authorization in the Court of Appeals for the Fourth Circuit as required by 28 U.S.C. §§ 2255 and 2244.

The court further finds there is no substantial showing of the denial of a constitutional right affecting the conviction nor a debatable procedural ruling, therefore a certificate of appealability is not issued.

A Judgment dismissing this action will be filed contemporaneously with this Order.

This the 5th day of November, 2024.

  
United States District Judge